

## **A guide to Right to Information Act, 22 of 2005**

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India got Independence in 1947 and proclaimed itself a Republic in 1950, with a great Constitution. However, in practice, a brown elite replaced the white masters and Swaraj did not come. Mahatma Gandhi had said, “Real Swaraj will come not by the acquisition of authority by a few but by the acquisition of capacity to resist authority when abused.” A few did acquire the authority and retained it, but the capacity to resist misuse of authority eluded the average Citizen of India. Right To Information (RTI) now empowers him to do that.

The **Right To Information** is derived from our fundamental right of expression under Article 19 of the Constitution of India. If we do not have information on how our Government and Public Institutions function, we cannot express any informed opinion on it. This has been clearly stated by various Supreme Court judgments, since 1977. We accept that the freedom of the press is an essential element for a democracy to function. It is worthwhile to understand the underlying assumption in this well entrenched belief. Why is the freedom of the media considered as one of the essential features for a democracy? Democracy revolves around the basic idea of Citizens being at the center of governance and rule of the people. We need to define the importance of the concept of freedom of the press from this fundamental premise. It is obvious that the main reason for a free press is to ensure that Citizens are informed. This being one of the main reasons for the primacy given to the freedom of the press, it clearly flows from this, that the Citizens Right To Know is paramount. Since the Government is run on behalf of the people, they are the rightful owners who have a right to be informed directly. Justice Mathew ruled in the Raj Narain case, “In a government of responsibility like ours, where all the agents of the public must be responsible for their conduct, there can be but few secrets. The people of this country have a right to know every public act, everything that is done in a public way by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearing. Their right to know, which is derived from the concept of freedom of speech, though not absolute, is a factor which should make one wary when secrecy is claimed for transactions which can at any rate have no repercussion on public security.”

Mazdoor Kisan Shakti Sangathan (MKSS) in the rural areas of Rajasthan first brought RTI on the agenda of the Nation. Nine States had enacted the Right To Information Acts across India. On 11 and 12 May, 2005, the two houses of Parliament passed the Right To Information Act as Act 22 of 2005. This became operational from 12 October, 2005 - significantly Vijayadashmi.

**Right To Information** (RTI) existed since the day the Constitution of India was framed. The present Act only gives procedures to operationalise this right.

## **The Importance of RTI**

1. At the price of Rs.10, it provides the facility for Citizens to get information on the Government's actions and decisions. If you send your application by registered post or courier, the extra cost will be about 10 to 25 Rupees. The cost of getting the information of about five pages would be Rs. 10/-. Even if you add the postage cost of getting the information the total will be about 70 rupees.

2. The law mandates that the information has to be given within 30 days.

3. If a few thousand Citizens spend about Rs. 70 per month and about an hour in their own house they can file a new RTI application and get information about matters, which concern them.

4. The power of getting accountability, reducing corruption, impacting policy decisions and ensuring better governance is now with us. We missed our opportunity in 1950, but have another chance now.

5. YOU individually can make a big contribution to getting the Nation we want.

6. A small effort from our own house, can bring Swaraj.

What is information? Section 2 (f) of the Act defines it thus:

(f) "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

Right to information is defined under Section 2(j) as:

"right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to -

- (i) inspection of work, documents, records;
- (ii) taking notes, extracts, or certified copies of documents or records.
- (iii) taking certified samples of material;
- (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;'

Information can be demanded from all Public authorities, i.e. all Govt. bodies and organizations substantially financed by Government including NGOs and aided schools and Colleges.

The **Right To Information** Act is a codification of this important right of Citizens. The right existed since the time India became a republic, but was difficult to enforce without going to Court. The Act stipulates the following:

- A time period within which information must be provided, namely 30 days.
- Method of giving the information.
- Ten exemptions of information- Section 8 (1),- which will not be given. However Section 8(2) specifies that if there is great Public interest in disclosure, all information must be given, even if it is exempt.

- Citizens can ask for information by getting Xerox copies of documents, permissions, policies and decisions.
- Inspection of files can also be done and samples can be asked for.
- All administrative offices of public authorities have to appoint 'Public Information Officers (PIO)' or 'Assistant Public Information Officer' (APIO).
- Citizens apply for information to the Public Information Officer of the concerned office.
- If information is not provided or wrongly refused, the Citizen can go in appeal to an Appellate Authority who would be an official in the same department, senior to the PIO. The Appellate authority has to give a decision in 30 days.
- If this too does not give a satisfactory result, one can appeal to the State or Central Information Commissioner, which is an independent Constitutional Authority, established under the Act.
- The Act provides for a penalty for delay on the PIO at a rate of Rs. 250 per day of delay, or for malafide denial of information, or giving false information. In case of information being delayed, no charges for information are to be paid.

Thus RTI provides for a time bound and defined process for Citizens to access information about all actions taken by Public authorities. The penal provisions on the PIO are the real teeth of the Act, which ensure that the PIO cannot treat Citizen's demands for information in a cavalier manner.

Each State has the right to frame its rules in terms of fees, procedures and forms, which have to be in consonance with the Act. The rules can only specify the application fee, and a set format for applications or appeals. They can also specify the extra charges for providing the information. The rules cannot go beyond the Act and have to be in consonance with it.

#### **Commonality between Maharashtra and Central Government rules:**

1. Application fee Rs.10 payable by cash or pay order. Maharashtra also allows payment by Court fee stamps. For Central Government bodies the 10 rupee application fee can be paid in certain designated post offices, by an Indian Postal Order.
2. Maharashtra has a format for application. The Central Government has no fixed format. Citizens can use the Maharashtra format for both.
3. Charges for providing information in A4 size paper are Rs.2 per page.
4. No need to get forms from anywhere. Your application can be typed or handwritten.

#### **A Few types of cases where this right can be used:**

1. You need information on some activity of the Government or reasons for certain decisions.
2. You know or suspect corruption or wrongdoing in some department or activity. The mere asking of information sometimes reduces illegal acts, since the wrongdoers feel restrained or threatened by exposure.

3. When bribes are sought to give your ration card or water connection or an authority refuses to act on a complaint or FIR.

4. You feel you could suggest improvements, if you have the information.

### **What do you need to do?**

1. Find out the address of office or department, which is responsible. You can address your application to the PIO, at that office. All offices are supposed to have a PIO or APIO. If the application goes to the wrong PIO, he has to forward it to the correct PIO within five days

2. Information has to exist in the office in some form. Think of how to frame a question asking for information, which will serve the objective you are trying to attain.

Examples:

a) If you wish to know of the policy for reserving or de-reserving of land, ask for a copy of the rules governing it. If you wish to know why a sports ground is being converted into a commercial complex, ask for the copies of the correspondence on this. This will also give you file notings with the reasons given by the different officials.

b) In Delhi Parivartan obtained information of a major fraud in the move of privatizing Water supply.

c) MKSS got copies of Civil works in rural Rajasthan and proved that they were fictitious.

d) I have obtained information about the loot of public money in crores using the device of giving Public lands to the elite for a pittance.

e) Bhaskar Prabhu of AGNI in Mumbai obtained details of corruption in admissions in Sydenham college.

f) Shivaji Raut in Satara obtained EGS muster rolls, which on verification exposed fraud.

Make the RTI application clearly defining the information you are seeking in Appendix A, sign it and take a xerox copy for your record. Send it to the office from which you are seeking information. If you or your representative is delivering it personally, get an acknowledgement on the Xerox copy. You can also send it by courier, or registered post, in which case you should keep the acknowledgement. Some offices cause problems in accepting hand-delivered requisitions. In such cases, courier or post is advisable. For Maharashtra Government bodies a Court Fee stamp of Rs.10 can be affixed on the form as payment of application fee. For Central Government Organizations, the most convenient method is to send a 10 rupee Indian Postal order - available at most Post offices. Leave space Pay to..... blank, and fill in your name and address in the space provided..

### **Information, which can be denied**

There are some matters where information can be denied, which are given in Section 8, (1). Quoting these verbatim from the Act:

8. (1)

Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,-

a. information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;

b. information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;

c. information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;

d. information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;

e. information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;

f. information received in confidence from foreign government;

g. information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;

h. information which would impede the process of investigation or apprehension or prosecution of offenders;

i. cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over

Provided further that those matters, which come under the exemptions specified in this section, shall not be disclosed;

j. Information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information, which cannot be denied to the Parliament or a State Legislature, shall not be denied to any person.

(2) Notwithstanding anything in the Official Secrets Act, 1923 nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow

access to information, if public interests in disclosure outweighs the harm to the protected interests.

One of the simple and yet very powerful examples of use of the **Right To Information** (RTI) I have heard is of a slum dweller who had learnt the use of the Right To Information. When he applied for a new ration card, he was told that he would have to give a bribe of Rs. 2000 to the officials to obtain it. Our friend, a RTI-empowered Citizen, - smiled and just went ahead and applied for the ration card without offering any bribes or groveling in front of the officials for pity. Our common Citizen had decided to personally become the enforcer of good governance. He found out all the bribe-givers got their ration cards in about four weeks. He waited for eight weeks, and then applied for information under RTI. Using the simple format with an application fee of Rs. 10, he delivered it to the Public Information Officer of the Food and Supply office. He had asked upto which date applications for ration cards had been cleared, and the progress report of his application. This shook up the corrupt officials, since the answer would reveal that they had given ration cards to others who had applied after him, which would be conclusive evidence that they had no justification for delaying his card. Happy ending: The Ration card was given to him immediately. Our RTI-empowered Citizen had been able to enforce the majesty of the Citizen by using RTI. This story and almost the same questions have been repeated many thousand times in getting pensions, passports, Income-Tax and Sales tax refunds, electricity connections, birth certificates and so on.

#### **A few useful tips when framing questions:**

1. Information must exist RTI cannot directly get you a decision; e.g. Asking why pension has not been obtained, or when your passport would be given may not get you any information since,- assuming there is no reason for the delay,- there is no record for this. Instead asking about the progress of your file, or norms for disposal of work, gives you documentary evidence showing the lack of justification for the delays and gives you names of officials responsible. Even if the administration is corrupt or grossly inefficient, it puts pressure on the officials if they give you the information in writing. Sometimes this stage itself works to get your desired result, at other times you would have to use it to complain to the higher authorities. If the higher authorities do not respond, use RTI to ask about the progress of your compliant.

#### **Format of Application for Maharashtra-Can be used for Central government bodies**

Annexure A (see rule 3) Format of application for obtaining information under the Right To Information Act, 2005

To,

The Public information Officer,

(Name of the Office with Address)

(1) Full name of applicant:

(2) Address:

- (3) Particulars of the information required
- (i) Subject matter of Information:
  - (ii) The period to which the information relates;
  - (iii) Description of the information required:
  - (iv) Whether the information is required by post or in person:  
(the actual postal charges shall be included in additional fees)
  - (v) In case by post:  
(Ordinary, Registered or Speed)

- (4) Whether the applicant is below poverty line:  
(if yes, attach the photocopy of the proof thereof.)

Signature of applicant

Place: Date:

Note: Pay Rs.10 by cash or by Pay order. For Maharashtra Government bodies you can also affix a 10 rupee Court Fee stamp on the application as application fee. For Central Government bodies the most convenient way paying the application fee is by an Indian Postal Order. **(AFFIX COURT FEES STAMP RS. 20/-)**

### **Appeal under RTI Act 2005**

Annexure B See Rule 5 (1)

Appeal under Section 19 (1) of the Right To Information Act 2005 From  
(Appellant's name and address) To: First Appellate Authority

1. Full name of the Appellant:
2. Address:
3. Particulars of the State Public information officer:
4. Date of receipt of the order appealed against:
5. Last date for filing the appeal:
6. The grounds for appeal:
7. Particulars of information
  - a.) Nature and subject matter of the information required:
  - b.) Name of the office or department to which the information relates:

Place:

Date:

Signature of appellant

*Enclosed: Copy of RTI application of with proof of receipt by PIO.*

Within the mandated period of 30 days from application one of the following will happen:

1. You will get the information you have sought, and are satisfied. The PIO may ask for payment of fees, which is prescribed as follows:

- i. For A4 size copies or typed information Rs. 2 per page,
- ii. For information given on Floppy or CD- Rs. 50/-
- iii. Maps, books or documents, which have been priced earlier, the price fixed for these.
- iv. For inspection of files or records-no charge for first hour and then Rs. 5 per every fifteen minutes.
- v. Postage charge would be added to this.

The period between the PIO asking for payment of fees, and the actual payment of fees, is not counted in the period of 30 days allowed to the PIO to give information.

2. The information asked for may be denied by the PIO giving reasons mentioned in the exclusion clauses.

- i. If the reasons are right, you cannot get the information,
- ii. The reasons may be wrong, or irrelevant

3. You may be given partial or irrelevant information.

4. No answer may be sent to you. Under Section 7 (2) if no reply is given in 30 days, it is 'deemed refusal'.

In case, of 2(ii), 3 or 4 above, you should go in appeal against the PIO to the first Appellate Authority, who is from the same department and senior to the PIO. If the PIO refuses to give the information he is also supposed to give you the name and address of the Appellate Authority. If no reply is received, or the PIO has not mentioned the name of the Appellate Authority, you could address the appeal to the Head of the Office.

If the PIO has refused information with malafide intentions, or not replied at all, he is liable for a penalty of Rs.250 per day, for the period of delay; i.e. until he gives the information. This penalty is payable by the PIO from his salary and he is also liable for disciplinary action. The penal provisions of Section 20, are the real teeth of the Act, which if properly implemented will bring the rule of law into our Governance. Also, when the information is provided after the period of thirty days is over, no cost can be charged for providing the information.



- The appeal must be made within 30 days of receiving the PIOs letter, OR Within 30 days from the last date on which the information should have been received - in case no letter is received,- i.e. within 60 days of your application..

- The Appellate authority must dispose off the appeal within 30 days, OR after giving reasons for delay - in a further period of 15 days; ie. a total of 45 days, if a letter giving reasons is issued.

- An appellate authority may give a personal hearing to you and the PIO. However, it is not mandatory for you to attend a personal hearing.

- The Appellate Authority though belonging to the same department as the PIO is actually conducting a quasi-judicial proceeding and expected to give a fair and unbiased order based on your arguments in the appeal. He is also required to give reasons for arriving at a decision. The actual outcome may be:

1. You get an order directing the PIO to give the information (reasonable chance):
2. You may get an order rejecting the appeal and refusing to give the information.
3. You may get no reply at all. This is deemed rejection, once the period of 30/45 days is over.

If you are not satisfied with the outcome, you can file a second appeal with the Information Commissioner within 90 days. There are separate Information Commissions for the State and for Central Government Organizations. The power to penalize PIOs is only with the Information Commissioners. It will be useful to take a look at the Act and its rules yourself by that time.

If the PIO seeks to charge you more than what is stipulated in the rules, refuse to pay and complain to the Information Commissioner-Section 18 (d). The PIO has no authority to charge you more than what is specified under the rules. He cannot ask you to pay for the cost of collating or gathering the information.

### **What can the Right To Information Act do?**

1. It restores to Citizens the right to get information on rules, expenditure, reasons for taking decisions, copies of Government orders, agreements, and Audit reports and so on. Virtually most activities of the Government can be monitored by the people.

2. Any Citizen can use RTI, without going to any Government office, and with a very low cost.

3. With a ten rupee fee and a proper format, a Citizen initiates a very powerful legal course, which entitles him to information, which can be demanded by MLAs and MPS on the floor of the house! You do not have to get forms from anywhere. Just use the format, specified in some States.

4. Citizens have felt helpless as individuals to question or correct wrongs as individuals. This Act restores the majesty of the Citizen and empowers him to use the Power of ONE.

5. It can convert our purely electoral democracy into a true participatory democracy, by which we can get and monitor better governance, and also be early participants in framing policy.

RTI application along with the fee is accepted by a lot of post offices for Central Government bodies.

You can access information on RTI at <http://www.satyamevjayate.info> Do join NCPRI- the National Campaign for People's Right to Information.

The rules, costs and formats mentioned in this booklet are for Central Government, and Maharashtra.

### **RTI: The weapon of the Common Man**



### **Some effective uses of RTI:**

1. Copies of Daily Sales Register, Card Register, Inspection Book, Daily and Monthly stock position Register & Cash Memos of ration shops. Parivartan-to uncover diversion of food grains for poor:

- Copy of logbooks for Municipal vehicles: Maj. Gen. Sudhir Jatar in Pune, discovered misuse by elected representatives.

- Details of Political recommendations for Police transfers: has resulted in a check on this nefarious practise in Mumbai.

- Copies of specifications for Road Construction and samples of concrete used: Citizens can stop poor roads from being made.

- Filing a complaint and then asking for the progress report using RTI: A very useful way for Citizens to get desired results.

- Asking for details of how Corporators or MLAs funds have been spent and then verifying the expense.

- Ask for specifications of road work, or public building starting in your locality. Ask for samples of say bitumen or concrete used. You could also ask for inspection of the work. You could consult a civil engineer in your area for implementing this. This could result in a better job being done.

### **RTI: The weapon of the Common Man**

Contact to suggest improvements, or if anyone wants any help in using RTI

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The RTI Act, various State rules, formats and case studies can be accessed at **[www.satyamevajayate.info](http://www.satyamevajayate.info)**

You Desire: Better governance, Better Policies, Reduction of Corruption, & Information about Government.

If you are willing to spend: About Rs. 70 & An hour of your time.

As an individual Citizen, you can achieve your desire by using **Right To Information.**: You have the power, and the responsibility.

We encourage you to copy/translate whatever you like. Copy it as it is, or improve on it. Do spread the crusade of The RIGHT TO INFORMATION.-The Common Man's BRAHMASTRA

Mera Bharat Mahaan... Nahi Hai. Per Yeh Dosh Mera Hai.